

Senate Bill No. 241

Passed the Senate September 2, 2009

Secretary of the Senate

Passed the Assembly August 27, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 113733, 113735, 113769, 113784, 113789, 113801, 113818, 113821, 113831, 113871, 113876, 113879, 113930, 113932, 113939, 113947, 113949.1, 113949.2, 113950.5, 113953, 113969, 113976, 113982, 113984, 113986, 113996, 114002, 114004, 114021, 114041, 114067, 114089, 114099.2, 114099.6, 114117, 114159, 114163, 114185, 114185.5, 114250, 114252, 114279, 114286, 114295, 114311, 114313, 114314, 114358, 114371, 114380, 114381, and 114387 of, to add Sections 113747.1, 113778.4, 113794.4, 114099.7, 114118, 114130.6, and 114306 to, to add the heading of Chapter 10.5 (commencing with Section 114332) to Part 7 of Division 104 of, to repeal Sections 113915, 114020.1, 114245.8, 114435, and 114436 of, and to repeal the heading of Article 13.5 (commencing with Section 114332) of Chapter 10 of Part 7 of Division 104 of, the Health and Safety Code, relating to food facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 241, Runner. Retail food facilities.

(1) The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, including mobile food facilities and satellite food service, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing this code. A violation of these provisions is punishable as a misdemeanor.

The code defines an “egg” to mean the shell egg of a domesticated chicken, turkey, duck, goose, or guinea.

This bill would revise this definition to include the shell egg of an avian species, as specified, except a balut and an egg product.

This bill would define cold water and frozen food for purposes of the code.

The code defines a “major violation” to mean a violation of the code that poses an imminent health hazard and warrants immediate closure action.

This bill would instead apply this definition to a violation that may pose such a health hazard and warrant these actions.

(2) The code exempts from its provisions premises set aside for wine tasting.

This bill would revise this exemption, as specified.

(3) The code exempts from its provisions child day care facilities, community care facilities, residential care facilities for the chronically ill, and residential care facilities for the elderly. The code requires, if and when a specific appropriation is made available, the State Department of Social Services to develop new regulations regarding food preparation provisions for child day care facilities, community care facilities, and residential care facilities for the elderly.

This bill would make technical, nonsubstantive changes to these provisions.

(4) The code defines prepackaged food as any properly labeled processed food, prepackaged to prevent direct human contact with the food product upon distribution from the manufacturer and prepared at an approved source.

This bill would revise this definition to include distribution from a food facility or other approved source.

(5) The code defines a produce stand to mean a permanent food facility that sells, offers for sale, or gives away only produce or shell eggs, or both.

This bill would exclude from this definition certain premises operated by a producer. It would also revise the definition of vermin, as specified.

This bill would additionally define a “single operating site mobile food facility” for purposes of the California Retail Food Code, and impose various requirements on these facilities. The bill would revise various standards applicable to mobile food facilities and satellite food service, with respect to water storage, contamination prevention, and construction standards.

(6) The code requires a local health officer, when notified of an illness that can be transmitted by food or a food employee of a food facility, to inform the local enforcement agency.

This bill would instead require the local enforcement agency to be informed when the local health officer is notified of an illness that can be transmitted by any employee of a food facility. By increasing duties of local officials, this bill would impose a state-mandated local program.

(7) The code prohibits food prepared in a private home from being used or offered for sale in a food facility.

This bill would also prohibit food stored in a private home from being used or offered for sale in a food facility.

(8) The code prohibits toilet rooms from being used for the storage of food, equipment, or supplies.

This bill would delete this prohibition.

The bill, among other things, would also revise provisions regarding the heating and cooling of food, lighting of specified rooms and areas, and the sanitization of utensils and equipment, and would make various technical, nonsubstantive changes.

By imposing new crimes and changing the definitions of existing crimes, this bill would impose a state-mandated local program.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(10) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 113733 of the Health and Safety Code is amended to read:

113733. “Acute gastrointestinal illness” means a short duration illness most often characterized by either of the following, which are known to be commonly associated with the agents most likely to be transmitted from infected food employees through contamination of food:

(a) Diarrhea, either alone or in conjunction with other gastrointestinal symptoms, such as vomiting, fever, or abdominal cramps.

(b) Vomiting in conjunction with either diarrhea or two other gastrointestinal symptoms, such as fever or abdominal cramps.

SEC. 2. Section 113735 of the Health and Safety Code is amended to read:

113735. “Approved source” means a food source allowed under Article 3 (commencing with Section 114021) of Chapter 4, or a producer, manufacturer, distributor, or food facility that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.

SEC. 3. Section 113747.1 is added to the Health and Safety Code, to read:

113747.1. “Cold water” means potable water that is not heated by an auxiliary method or source.

SEC. 4. Section 113769 of the Health and Safety Code is amended to read:

113769. “Egg” means the shell egg of an avian species that includes chicken, duck, goose, guinea, quail, ratite, or turkey, except a balut and an egg product. “Egg” does not include the egg of a reptile species, including an alligator.

SEC. 5. Section 113778.4 is added to the Health and Safety Code, to read:

113778.4. “Fabric implement” means a cloth or fabric, including, but not limited to, burlap and cheesecloth, that is used as part of the food process and comes in direct contact with food that is subsequently cooked.

SEC. 6. Section 113784 of the Health and Safety Code is amended to read:

113784. “Food compartment” means an enclosed space, including, but not limited to, an air pot, blender, bulk dispensing system, covered chafing dish, and covered ice bin, with all of the following characteristics:

(a) The space is defined by a physical barrier from the outside environment that completely encloses all food, food-contact surfaces, and the handling of nonprepackaged food.

(b) All access openings are equipped with tight-fitting closures, or one or more alternative barriers that effectively protect the food from contamination, facilitate safe food handling, while minimizing exposure to the environment.

(c) It is constructed from materials that are nontoxic, smooth, easily cleanable, and durable and is constructed to facilitate the cleaning of the interior and exterior of the compartment.

SEC. 7. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities.

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no

monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

SEC. 8. Section 113794.4 is added to the Health and Safety Code, to read:

113794.4. “Frozen food” means a food maintained at a temperature at which all moisture therein is in a solid state.

SEC. 9. Section 113801 of the Health and Safety Code is amended to read:

113801. “HACCP plan” means a written document that complies with the requirements of Section 114419.1 and that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods. These principles include completion of the following basic steps:

(a) Completion of hazard analysis identification by identifying the likely hazards to consumers presented by a specific food.

(b) Determination of critical control points in receiving, storage, preparation, displaying, and dispensing of a food.

(c) Setting of measurable critical limits for each critical control point determined.

(d) Developing and maintaining monitoring practices to determine if critical limits are being met.

(e) Developing and utilizing corrective action plans when failure to meet critical limits is detected.

(f) Establishing and maintaining a recordkeeping system to verify adherence to an HACCP plan.

(g) Establishing a system of audits to do both of the following:

(1) Initially verify the effectiveness of the critical limits set and appropriateness of the determination of critical control points.

(2) Periodically verify the effectiveness of the HACCP plan.

SEC. 10. Section 113818 of the Health and Safety Code is amended to read:

113818. (a) “Limited food preparation” means food preparation that is restricted to one or more of the following:

(1) Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food.

(2) Dispensing and portioning of nonpotentially hazardous food.

(3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.

(4) Slicing and chopping of food on a heated cooking surface during the cooking process.

(5) Cooking and seasoning to order.

(6) Preparing beverages that are for immediate service, in response to an individual consumer order, that do not contain frozen milk products.

(b) “Limited food preparation” does not include any of the following:

(1) Slicing and chopping unless it is on the heated cooking surface.

(2) Thawing.

(3) Cooling of cooked, potentially hazardous food.

(4) Grinding raw ingredients or potentially hazardous food.

(5) Reheating of potentially hazardous foods for hot holding, except for steamed or boiled hot dogs and tamales in the original, inedible wrapper.

(6) Hot holding of nonprepackaged, potentially hazardous food, except for roasting corn on the cob, steamed or boiled hot dogs, and tamales in the original, inedible wrapper.

(7) Washing of foods.

(8) Cooking of potentially hazardous foods for later use.

SEC. 11. Section 113821 of the Health and Safety Code is amended to read:

113821. “Major violation” means a violation of this part that may pose an imminent health hazard and warrants immediate closure or other corrective action.

SEC. 12. Section 113831 of the Health and Safety Code is amended to read:

113831. (a) “Mobile food facility” means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. “Mobile food facility” does not include a “transporter” used to transport packaged food from a food facility, or other approved source to the consumer.

(b) “Single operating site mobile food facilities” means at least one, but not more than four, unenclosed mobile food facilities, and their auxiliary units, that operate adjacent to each other at a single location.

SEC. 13. Section 113871 of the Health and Safety Code is amended to read:

113871. (a) “Potentially hazardous food” means a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation.

(b) “Potentially hazardous food” includes a food of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, cut tomatoes or mixtures of cut tomatoes that are not modified to render them unable to support pathogenic micro-organism growth or toxin formation, and garlic-in-oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth or toxin formation as specified under subdivision (a).

(c) “Potentially hazardous food” does not include any of the following:

(1) A food with an a_w value of 0.85 or less.

(2) A food with a pH level of 4.6 or below when measured at 75°F.

(3) An air-cooled, hard-boiled egg with shell intact, or an egg with shell intact that is not hard boiled, but has been pasteurized to destroy all viable salmonellae.

(4) A food in an unopened, hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution.

(5) A food that has been shown by appropriate microbial challenge studies approved by the enforcement agency not to support the rapid and progressive growth of infectious or toxigenic micro-organisms that may cause food infections or food intoxications, or the growth and toxin production of *Clostridium botulinum*, such as a food that has an a_w and a pH that are above the levels specified under paragraphs (1) and (2) and that may contain a preservative, other barrier to the growth of micro-organisms, or a combination of barriers that inhibit the growth of micro-organisms.

(6) A food that does not support the rapid and progressive growth of infectious or toxigenic micro-organisms, even though the food may contain an infectious or toxigenic micro-organism or chemical or physical contaminant at a level sufficient to cause illness.

SEC. 14. Section 113876 of the Health and Safety Code is amended to read:

113876. “Prepackaged food” means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, a food facility, or other approved source.

SEC. 15. Section 113879 of the Health and Safety Code is amended to read:

113879. “Produce stand” means a permanent food facility that sells, offers for sale, or gives away only produce or shell eggs, or both, except that “produce stand” does not include premises operated by a producer selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided that the sales are conducted on premises controlled by the producer.

SEC. 16. Section 113915 of the Health and Safety Code is repealed.

SEC. 17. Section 113930 of the Health and Safety Code is amended to read:

113930. “Temporary food facility” means a food facility approved by the enforcement officer that operates at a fixed location for the duration of an approved community event or at a swap meet and only as a part of the community event or swap meet.

SEC. 18. Section 113932 of the Health and Safety Code is amended to read:

113932. “Transporter” means any vehicle used to transport food pursuant to a prior order from a manufacturer, distributor, retail food facility, or other approved source to a retail food facility or consumer.

SEC. 19. Section 113939 of the Health and Safety Code is amended to read:

113939. “Vermin” means cockroaches, mice, rats, and similar pests that carry disease.

SEC. 20. Section 113947 of the Health and Safety Code is amended to read:

113947. (a) The person in charge and all food employees shall have adequate knowledge of, and shall be properly trained in, food safety as it relates to their assigned duties.

(b) For purposes of this section, “person in charge” means a designated person who has knowledge of safe food handling practices as they relate to the specific food preparation activities that occur at the food facility.

SEC. 21. Section 113949.1 of the Health and Safety Code is amended to read:

113949.1. (a) When a local health officer is notified of an illness that can be transmitted by food in a food facility or by an employee of a food facility, the local health officer shall inform the local enforcement agency. The local health officer or the local enforcement agency, or both, shall notify the person in charge of the food facility and shall investigate conditions and may, after the investigation, take appropriate action, and for reasonable cause, require any or all of the following measures to be taken:

(1) The immediate restriction or exclusion of any food employee from the affected food facility.

(2) The immediate closing of the food facility until, in the opinion of the local enforcement agency, the identified danger of

disease outbreak has been addressed. Any appeal of the closure shall be made in writing within five days to the applicable local enforcement agency.

(3) Any medical evaluation of any employee, including any laboratory test or procedure, that may be indicated. If an employee refuses to participate in a medical evaluation, the local enforcement agency may require the immediate exclusion of the refusing employee from that or any other food facility until an acceptable medical evaluation or laboratory test or procedure shows that the employee is not infectious.

(b) For purposes of this section, “illness” means a condition caused by any of the following infectious agents:

- (1) *Salmonella typhi*.
- (2) *Salmonella spp.*
- (3) *Shigella spp.*
- (4) *Entamoeba histolytica*.
- (5) Enterohemorrhagic or shiga toxin producing *Escherichia coli*.
- (6) Hepatitis A virus.
- (7) Norovirus.
- (8) Other communicable diseases that are transmissible through food.

SEC. 22. Section 113949.2 of the Health and Safety Code is amended to read:

113949.2. The owner who has a food safety certificate issued pursuant to Section 113947.1 or the food employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The owner or food safety certified employee shall require food employees to report the following to the person in charge:

(a) If a food employee is diagnosed with an illness due to one of the following:

- (1) *Salmonella typhi*.
- (2) *Salmonella spp.*
- (3) *Shigella spp.*
- (4) *Entamoeba histolytica*.
- (5) Enterohemorrhagic or shiga toxin producing *Escherichia coli*.

(6) Hepatitis A virus.

(7) Norovirus.

(b) If a food employee has a lesion or wound that is open or draining and is one of the following:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover.

(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover.

(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

SEC. 23. Section 113950.5 of the Health and Safety Code is amended to read:

113950.5. (a) The person in charge may remove a restriction for a food employee upon the resolution of symptoms as reported by a food employee if the food employee states that he or she no longer has any symptoms of an acute gastrointestinal illness.

(b) Only the local health officer or the local enforcement agency, or both, shall remove exclusions or restrictions, or both, related to diagnosed illnesses due to infectious agents specified in subdivision (b) of Section 113949.1 after the local health officer provides a written clearance stating that the excluded or restricted food employee is no longer considered infectious.

SEC. 24. Section 113953 of the Health and Safety Code is amended to read:

113953. (a) Handwashing facilities shall be provided within or adjacent to toilet rooms. The number of handwashing facilities required shall be in accordance with local building and plumbing codes.

(b) (1) Except as otherwise provided in Section 114358, food facilities constructed or extensively remodeled after January 1, 1996, that handle nonprepackaged food, shall provide facilities exclusively for handwashing in food preparation areas and in warewashing areas that are not located within or immediately adjacent to food preparation areas. Handwashing facilities shall be sufficient in number and conveniently located so as to be accessible at all times for use by food employees.

(2) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least 6 inches, that extends from the back edge of the drainboard to the

front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

(c) Handwashing facilities shall be equipped to provide warm water under pressure for a minimum of 15 seconds through a mixing valve or combination faucet. If the temperature of water provided to a handwashing sink is not readily adjustable at the faucet, the temperature of the water shall be at least 100°F, but not greater than 108°F.

(d) An automatic handwashing facility may be installed and used in accordance with the manufacturer's instructions.

(e) Notwithstanding subdivision (b), the enforcement agency may allow handwashing facilities other than those required by this section when it deems that the alternate facilities are adequate.

SEC. 25. Section 113969 of the Health and Safety Code is amended to read:

113969. (a) Except as specified in subdivision (b), all food employees preparing, serving, or handling food or utensils shall wear hair restraints, such as hats, hair coverings, or nets, which are designed and worn to effectively keep their hair from contacting nonprepackaged food, clean equipment, utensils, linens, and unwrapped single-use articles.

(b) This section does not apply to food employees, such as counter staff who only serve beverages and wrapped or prepackaged foods, hostesses, and wait staff, if they present a minimal risk of contaminating nonprepackaged food, clean equipment, utensils, linens, and unwrapped single-use articles.

SEC. 26. Section 113976 of the Health and Safety Code is amended to read:

113976. Unless a utensil used to taste food is discarded after the first time it is used for this purpose and before the next tasting or any other use, the utensil shall be washed, rinsed, and sanitized pursuant to Chapter 5 (commencing with Section 114095) between tastings and before any other use.

SEC. 27. Section 113982 of the Health and Safety Code is amended to read:

113982. (a) Food shall be transported in a manner that meets the following requirements:

(1) The interior floor, sides, and top of the food holding area shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning.

(2) The food holding area shall be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.

(3) Except as provided in subdivision (a) of Section 113996, potentially hazardous food shall be maintained at the required holding temperatures.

(b) This section shall not apply to the transportation of prepackaged nonpotentially hazardous foods.

SEC. 28. Section 113984 of the Health and Safety Code is amended to read:

113984. (a) Adequate and suitable counter space shall be provided for all food preparation operations.

(b) Except as specified in subdivision (c), food preparation shall be conducted within a fully enclosed food facility.

(c) Limited food preparation shall be conducted within a food compartment or as approved by the enforcement agency. Subject to subdivision (g), this subdivision shall not be construed to require an additional food compartment when adding ingredients to a beverage or dispensing into a serving container when the beverage is prepared for immediate service in response to an individual consumer order.

(d) Food shall be prepared with suitable utensils and on surfaces that, prior to use, have been cleaned, rinsed, and sanitized as specified in Section 114117 to prevent cross-contamination.

(e) Overhead protection shall be provided above all food preparation, food display, warewashing, and food storage areas.

(f) All food shall be thawed, washed, sliced, and cooled within an approved fully enclosed food facility.

(g) Based upon local environmental conditions, location, and other similar factors, the enforcement officer may establish additional structural or operational requirements, or both, for mobile food facilities as necessary to ensure that foods, food-contact surfaces, and utensils are of a safe and sanitary quality.

SEC. 29. Section 113986 of the Health and Safety Code is amended to read:

113986. (a) Food shall be protected from cross-contamination by utilizing one or more of the following methods:

(1) Separating raw food of animal origin during transportation, storage, preparation, holding, and display from raw ready-to-eat food, including other raw food of animal origin such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as produce, and cooked ready-to-eat food in any of the following ways:

(A) Using separate equipment of each type.

(B) Arranging each type of food in equipment so that cross-contamination of one type with another is prevented.

(C) Preparing each type of food at different times or in separate areas.

(D) Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E) Cleaning hermetically sealed containers of food of visible soil before opening.

(F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened.

(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H) Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(2) Except when combined as ingredients, separating types of raw foods of animal origin from each other during transportation, storage, preparation, holding, and display in the following ways:

(A) Using separate equipment for each type.

(B) Arranging each type of food in equipment so that cross-contamination of one type with another is prevented.

(C) Preparing each type of food at different times or in separate areas.

(D) Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E) Cleaning hermetically sealed containers of food of visible soil before opening.

(F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened.

(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H) Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(b) Subparagraph (D) of paragraph (2) of subdivision (a) of this section shall not apply to any of the following:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption.

(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks.

(3) Whole, uncut, processed meats, such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks.

(4) Food being cooled as specified in subdivision (b) of Section 114002.1.

(5) Shellstock.

SEC. 30. Section 113996 of the Health and Safety Code is amended to read:

113996. (a) Except during preparation, cooking, cooling, transportation to or from a retail food facility for a period of less than 30 minutes, or when time is used as the public health control as specified under Section 114000, or as otherwise provided in this section, potentially hazardous food shall be maintained at or above 135°F, or at or below 41°F.

(b) Roasts cooked to a temperature and for a time specified in subdivision (b) of Section 114004 shall be held at a temperature of 130°F or above.

(c) The following foods may be held at or below 45°F:

(1) Raw shell eggs.

(2) Unshucked live molluscan shellfish.

(3) Pasteurized milk and pasteurized milk products in original, sealed containers.

(4) Potentially hazardous foods held for dispensing in vending machines.

(5) Potentially hazardous foods held for sampling at a certified farmers' market.

(6) Potentially hazardous foods held during transportation.

(d) Potentially hazardous foods held for dispensing in serving lines and salad bars may be maintained above 41°F, but not above 45°F, during periods not to exceed 12 hours in any 24-hour period

only if the unused portions are disposed of at or before the end of this 24-hour period. For purposes of this subdivision, a display case shall not be deemed to be a serving line.

SEC. 31. Section 114002 of the Health and Safety Code is amended to read:

114002. (a) Whenever food has been prepared or heated so that it becomes potentially hazardous, it shall be rapidly cooled if not held at or above 135°F.

(b) After heating or hot holding, potentially hazardous food shall be cooled rapidly from 135°F to 41°F or below within six hours and, during this time the decrease in temperature from 135°F to 70°F shall occur within two hours.

(c) Potentially hazardous food shall be cooled within four hours to 41°F or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(d) Except as specified in subdivision (e), a potentially hazardous food received in compliance with laws allowing a temperature above 41°F during shipment from the supplier as specified in Section 114037 shall be cooled within four hours to 41°F or less.

(e) Pasteurized milk in original, sealed containers, pasteurized milk products in original, sealed containers, raw shell eggs, and unshucked live molluscan shellfish need not comply with subdivision (c) or (d) if these foods are placed immediately upon their receipt in refrigerated equipment that maintains an ambient temperature of 45°F or less.

SEC. 32. Section 114004 of the Health and Safety Code is amended to read:

114004. (a) Except as specified in subdivision (c), all ready-to-eat foods prepared at a food facility from raw or incompletely cooked food of animal origin shall be cooked to heat all parts of the food to a temperature and for a time that complies with the following methods based on the food that is cooked:

(1) The following shall be heated to a minimum internal temperature of 145°F or above for 15 seconds:

(A) Raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service.

(B) Fish.

(C) Single pieces of meat, including beef, veal, lamb, pork, and game animals from approved sources.

(2) The following foods shall be heated to a minimum internal temperature of 155°F for 15 seconds or the temperature specified in the following chart that corresponds to the holding time:

- (A) Ratites and injected meats.
- (B) Comminuted meat or any food containing comminuted meat.
- (C) Raw eggs and foods containing raw eggs that are not prepared as specified in paragraph (1).

Minimum	
Temperature (°F)	Time
145	3 minutes
150	1 minute
158	< 1second (instantaneous)

(3) The following shall be heated to a minimum internal temperature of 165°F for 15 seconds:

- (A) Poultry.
- (B) Comminuted poultry.
- (C) Stuffed fish, stuffed meat, stuffed poultry, and stuffed ratites.
- (D) Stuffing containing fish, meat, poultry, or ratites.
- (E) Pasta and any other food stuffed with fish, meat, poultry, or ratites.
- (b) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts, such as ham, shall be cooked as specified in both of the following:

(1) In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature:

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs	10 lbs or more
Still Dry	350°F or more	250°F or more
Convection	325°F or more	250°F or more
High Humidity*	250°F or less	250°F or less
*Relative humidity greater than 90% for at least 1 hour measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.		

(2) As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

Temperature (°F)	Time* in Minutes	Temperature (°F)	Time* in Seconds
130	112	147	134
131	89	149	85
133	56	151	54
135	36	153	34
136	28	155	22
138	18	157	14
140	12	158	0
142	8		
144	5		
145	4		

* Holding time may include postoven heat rise.

(c) The department may approve alternative time and temperature minimum heating requirements to thoroughly cook the foods identified in this section when the food facility or person demonstrates to the department that the alternative heating requirements provide an equivalent level of food safety.

SEC. 33. Section 114020.1 of the Health and Safety Code is repealed.

SEC. 34. Section 114021 of the Health and Safety Code is amended to read:

114021. (a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility.

SEC. 35. Section 114041 of the Health and Safety Code is amended to read:

114041. (a) Shell eggs shall be received clean and sound.

(b) Shell eggs shall not exceed the restricted egg tolerances for United States Consumer Grade B Standards.

SEC. 36. Section 114067 of the Health and Safety Code is amended to read:

114067. (a) Satellite food service is restricted to limited food preparation.

(b) Satellite food service shall only be operated by a fully enclosed permanent food facility that meets the requirements for food preparation and service and that is responsible for servicing the satellite food service operation.

(c) Prior to conducting satellite food service, the permitholder of the permanent food facility shall submit to the enforcement agency written standard operating procedures that include all of the following information:

(1) All food products that will be handled and dispensed.

(2) The proposed procedures and methods of food preparation and handling.

(3) Procedures, methods, and schedules for cleaning utensils, equipment, structures, and for the disposal of refuse.

(4) How food will be transported to and from the permanent food facility and the satellite food service operation, and procedures to prevent contamination of foods.

(5) How potentially hazardous foods will be maintained in accordance with Section 113996.

(d) All food preparation shall be conducted within a food compartment or fully enclosed facility approved by the enforcement officer.

(e) Satellite food service areas shall have overhead protection that extends over all food handling areas.

(f) Satellite food service operations that handle nonprepackaged food shall be equipped with approved handwashing facilities and warewashing facilities that are either permanently plumbed or self-contained.

(g) Notwithstanding subdivision (f), the local enforcement agency may approve the use of alternative warewashing facilities.

(h) During nonoperating hours and periods of inclement weather, food, food contact surfaces, and utensils shall be stored within any of the following:

(1) A fully enclosed satellite food service operation.

(2) Approved food compartments where food, food contact surfaces, and utensils are protected at all times from contamination, exposure to the elements, ingress of vermin, and temperature abuse.

(3) A fully enclosed permanent food facility.

(i) Satellite food service activities shall be conducted by and under the constant and complete control of the permitholder of the

fully enclosed permanent food facility, or the duly contracted personnel of, or third-party providers to, the permitholder.

(j) For purposes of permitting and enforcement, the permitholder of the permanent food facility and the permitholder of the satellite food service shall be the same.

SEC. 37. Section 114089 of the Health and Safety Code is amended to read:

114089. (a) Food prepackaged in a food facility shall bear a label that complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)), 21 C.F.R. 101-Food Labeling, 9 C.F.R. 317-Labeling, Marking Devices, and Containers, and 9 C.F.R. 381-Subpart N Labeling and Containers, and as specified under Sections 114039 and 114039.1.

(b) Label information shall include the following:

(1) The common name of the food, or absent a common name, an adequately descriptive identity statement.

(2) If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food.

(3) An accurate declaration of the quantity of contents.

(4) The name and place of business of the manufacturer, packer, or distributor.

(5) Except as exempted in the Federal Food, Drug, and Cosmetic Act (Section 403(Q)(3)–(5) (21 U.S.C. Sec. 343(q)(3)–(5), incl.)), nutrition labeling as specified in 21 C.F.R. 101-Food Labeling and 9 C.F.R. 317 Subpart B Nutrition Labeling.

(c) Bulk food that is available for consumer self-service shall be prominently labeled with either of the following in plain view of the consumer:

(1) The manufacturer's or processor's label that was provided with the food.

(2) A card, sign, or other method of notification that includes the information specified under paragraphs (1), (2), and (5) of subdivision (b).

SEC. 38. Section 114099.2 of the Health and Safety Code is amended to read:

114099.2. (a) Notwithstanding Section 114099, manual warewashing shall be accomplished by using a three-compartment sink.

(b) The temperature of the washing solution shall be maintained at not less than 100°F or the temperature specified by the manufacturer on the cleaning agent manufacturer's label instructions or as provided in writing by the manufacturer.

(c) The utensils shall then be rinsed in clear water before being immersed in a sanitizing solution.

(d) Manual sanitization shall be accomplished as specified in Section 114099.6.

(e) In-place sanitizing shall be accomplished as specified in Section 114099.6.

(f) Other methods may be used if approved by the enforcement agency.

SEC. 39. Section 114099.6 of the Health and Safety Code is amended to read:

114099.6. Manual sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a) Immersion for at least 30 seconds where the water temperature is maintained at 171°F or above.

(b) The application of sanitizing chemicals by immersion, manual swabbing, or brushing, using one of the following solutions:

(1) Contact with a solution of 100 ppm available chlorine solution for at least 30 seconds.

(2) Contact with a solution of 25 ppm available iodine for at least one minute.

(3) Contact with a solution of 200 ppm quaternary ammonium for at least one minute.

(4) Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the manufacturer's use directions.

(c) Other methods approved by the enforcement agency.

SEC. 40. Section 114099.7 is added to the Health and Safety Code, to read:

114099.7. Mechanical sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a) By being cycled through equipment that is used in accordance with the manufacturer's specifications and achieving a utensil surface temperature of 160°F as measured by an irreversible registering temperature indicator.

(b) The mechanical application of sanitizing chemicals by pressure spraying methods using one of the following solutions:

(1) Contact with a solution of 50 ppm available chlorine for at least 30 seconds.

(2) Contact with a solution of 25 ppm available iodine for at least one minute.

(3) Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the following:

(A) The sanitizer manufacturer's use directions as specified on the product label.

(B) The machine manufacturer's specifications as provided in the manufacturer's operating instructions.

SEC. 41. Section 114117 of the Health and Safety Code is amended to read:

114117. (a) Equipment food-contact surfaces and utensils shall be cleaned and sanitized at the following times:

(1) Except as specified in subdivision (b), before each use with a different type of raw food of animal origin such as beef, fish, lamb, pork, or poultry.

(2) Each time there is a change from working with raw foods to working with ready-to-eat foods.

(3) Between uses with raw produce and with potentially hazardous food.

(4) Before using or storing a food temperature measuring device.

(5) At any time during the operation when contamination may have occurred.

(b) Paragraph (1) of subdivision (a) does not apply if the food contact surface or utensil is in contact with a succession of different raw foods of animal origin, each requiring a higher cooking temperature as specified in Section 114004 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

(c) Except as specified in subdivision (d), if used with potentially hazardous food, equipment food-contact surfaces and utensils shall

be cleaned and sanitized throughout the day at least every four hours.

(d) Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned and sanitized less frequently than every four hours if any of the following occurs:

(1) In storage, containers of potentially hazardous food and their contents are maintained at temperatures as specified in Section 113996 and the containers are cleaned and sanitized when they are empty.

(2) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at or below 55°F. In that case, the utensils and equipment shall be cleaned and sanitized at the frequency that corresponds to the temperature as depicted in the following chart and the cleaning frequency based on the ambient temperature of the refrigerated room or area shall be documented and records shall be maintained in the food facility and made available to the enforcement agency upon request:

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C – 7.2°C (>41°F – 45°F)	20 hours
>7.2°C – 10.0°C (>45°F – 50°F)	16 hours
>10.0°C – 12.8°C (>50°F – 55°F)	10 hours

(3) Containers in serving situations such as salad bars, delis, and cafeteria lines that hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified in subdivisions (a) to (c), inclusive, of Section 113996 are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned and sanitized at least every 24 hours. Utensils and containers holding potentially hazardous foods in accordance with subdivision (d) of Section 113996 are cleaned when they are empty or when the remaining contents are disposed of.

(4) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a

roast, held at temperatures specified in Sections 113996 and 114004.

(5) Equipment is used for storage of packaged or unpackaged food, such as a reach-in refrigerator, and the equipment is cleaned and sanitized at a frequency necessary to preclude accumulation of soil residues.

(6) The cleaning schedule is approved based on consideration of characteristics of the equipment and its use, the type of food involved, the amount of food residue accumulation, and the temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic micro-organisms that are capable of causing foodborne disease.

(7) In-use utensils are intermittently stored in a container of water in which the water is maintained at 135°F or higher and the utensils and container are cleaned and sanitized at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(e) Except when dry cleaning methods are used as specified in Section 114111, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned and sanitized in any of the following circumstances:

(1) At any time when contamination may have occurred.

(2) At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles.

(3) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers.

(4) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment, at a frequency specified by the manufacturer, or, absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

SEC. 42. Section 114118 is added to the Health and Safety Code, to read:

114118. Fabric implements shall be laundered and sanitized before or after use in direct contact with food.

SEC. 43. Section 114130.6 is added to the Health and Safety Code, to read:

114130.6. Materials that are used in fabric implements shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be safe, durable, and sufficient in strength to withstand repeated cleaning or laundering and shall be resistant to fraying and deterioration.

SEC. 44. Section 114159 of the Health and Safety Code is amended to read:

114159. (a) Except for vending machines, an accurate, easily readable, metal probe thermometer suitable for measuring the temperature of food shall be readily available on the premises of each food facility holding potentially hazardous food.

(b) A food temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish fillets.

(c) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to $\pm 2^{\circ}\text{F}$ in the intended range of use. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to $\pm 1^{\circ}\text{C}$ in the intended range of use.

(d) Food temperature measuring devices shall not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used.

(e) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

SEC. 45. Section 114163 of the Health and Safety Code is amended to read:

114163. (a) Except as specified in subdivision (b), all permanent food facilities that wash, rinse, soak, thaw, or similarly prepare foods shall be provided with a food preparation sink.

(1) The food preparation sink shall have a minimum dimension of 18 inches by 18 inches in length and width and 12 inches in depth with an integral drainboard or adjacent table at least 18 inches by 18 inches in length and width.

(2) The food preparation sink shall be located in the food preparation area, provided exclusively for food preparation, and accessible at all times.

(3) The sink shall be equipped with an adequate supply of hot and cold running water through a mixing valve.

(b) (1) Food facilities that were approved for operation without a food preparation sink prior to January 1, 2007, need not provide a food preparation sink unless the food facility makes a menu change or changes their method of operation.

(2) The enforcement officer may approve other methods where the installation of a food preparation sink would not be readily feasible.

SEC. 46. Section 114185 of the Health and Safety Code is amended to read:

114185. Except for linen used in fabric implements, linen shall not be used in contact with food unless they are used to line a container for the service of foods and the linens are replaced each time the container is refilled for a new consumer and laundered prior to reuse.

SEC. 47. Section 114185.5 of the Health and Safety Code is amended to read:

114185.5. (a) Laundry facilities on the premises of a food facility shall be used only for the washing and drying of items used in the operation of the establishment.

(b) If work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

(c) If wiping cloths are laundered on the premises, they shall be laundered in a mechanical clothes washer and dryer or in a warewashing sink that is cleaned and sanitized before and after each time it is used to wash wiping cloths or wash produce or thaw food.

SEC. 48. Section 114245.8 of the Health and Safety Code is repealed.

SEC. 49. Section 114250 of the Health and Safety Code is amended to read:

114250. Clean toilet rooms in good repair shall be provided and conveniently located and accessible for use by employees during all hours of operation. The number of toilet facilities required shall be in accordance with applicable local building and

plumbing ordinances. Toilet tissue shall be provided in a permanently installed dispenser at each toilet.

SEC. 50. Section 114252 of the Health and Safety Code is amended to read:

114252. In every room and area in which any food is prepared, manufactured, processed, or prepackaged, or in which equipment or utensils are cleaned, sufficient natural or artificial lighting shall be provided to produce the following light intensity, while the area is in use:

(a) At least 10 foot candles for the following:

(1) At a distance of 30 inches above the floor, in walk-in refrigeration units and dry food storage areas.

(2) At a working surface on which alcoholic beverages are prepared or where utensils used in the preparation or service of alcoholic beverages are cleaned.

(3) Inside equipment, such as reach-in or under-the-counter refrigerators.

(b) At least 20 foot candles for the following:

(1) At a surface where food is provided for consumer self-service or where fresh produce or prepackaged foods are sold or offered for consumption.

(2) In server stations where food is prepared.

(3) At a distance of 30 inches above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms.

(4) In all areas and rooms during periods of cleaning.

(c) Except in server stations where food is prepared, at least 50 foot candles at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

SEC. 51. Section 114279 of the Health and Safety Code is amended to read:

114279. (a) At least one curbed cleaning facility or janitorial sink equipped with hot and cold water and a drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(b) Restricted food service facilities shall be exempt from subdivision (a) if hot water is available for janitorial purposes and

wastewater from janitorial activities is disposed of through an approved sewage disposal system.

SEC. 52. Section 114286 of the Health and Safety Code is amended to read:

114286. (a) No sleeping accommodations shall be maintained or kept in any room where food is prepared, stored, or sold.

(b) Living or sleeping quarters located on the premises of a food facility shall be separated from rooms and areas used for food facility operations by complete partitioning. Except for restricted food service facilities, no door or other opening shall be permitted in the partition that separates the food facility from the living or sleeping quarters.

SEC. 53. Section 114295 of the Health and Safety Code is amended to read:

114295. (a) Except as specified in subdivision (b), all mobile food facilities shall operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency.

(b) This section does not apply to mobile food facilities that operate at community events as defined in Section 113755 and that remain in a fixed position during food preparation and its hours of operation.

(c) Mobile food facilities shall be stored at or within a commissary or other location approved by the enforcement agency in order to have protection from unsanitary conditions.

(d) Mobile support units shall be operated from and stored at a designated commissary and shall be subject to permitting and plan review.

(e) Notwithstanding any other provisions of this section, a mobile food facility that is engaged in food preparation, other than limited food preparation, as defined in Section 113818, shall not operate in conjunction with a mobile support unit.

SEC. 54. Section 114306 is added to the Health and Safety Code, to read:

114306. (a) A single operating site mobile food facility is restricted to produce, prepackaged food, and limited food preparation.

(b) Notwithstanding Section 113984, a mobile food facility operating within a fully enclosed structure shall not be required to provide a secondary food compartment over food preparation areas.

(c) A single operating site mobile food facility that is required to provide warewashing and handwashing facilities shall provide a warewashing sink and handwashing sink per site or operation. A warewashing and handwashing sink contained in a facility to which this subdivision applies shall be conveniently located so as to be accessible during all hours of operation. Additional handwashing sinks may be required pursuant to paragraph (1) of subdivision (b) of Section 113953.

(d) Notwithstanding Section 114095, a warewashing sink may be shared by not more than four mobile food facilities operating as a single operating site mobile food facility that is required to provide a warewashing sink, if the sink is conveniently located so as to be accessible during all hours of operation.

(e) For purposes of permitting and enforcement, the permitholder of each single operating site mobile food facility location shall be the same.

SEC. 55. Section 114311 of the Health and Safety Code is amended to read:

114311. Mobile food facilities not under a valid permit as of January 1, 1997, from which nonprepackaged food is sold shall provide handwashing facilities. The handwashing facilities shall be separate from the warewashing sink.

(a) The handwashing sink shall have a minimum dimension of nine inches by nine inches in length and width and five inches in depth and be easily accessible by food employees.

(b) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

(c) This section shall not apply to mobile food facilities handling only whole produce or the bulk dispensing of nonpotentially hazardous beverages.

SEC. 56. Section 114313 of the Health and Safety Code is amended to read:

114313. (a) Except as specified in subdivisions (b) and (c), a mobile food facility where nonprepackaged food is cooked, blended, or otherwise prepared shall provide a warewashing sink

with at least three compartments with two integral metal drainboards.

(1) The dimensions of each compartment shall be large enough to accommodate the cleaning of the largest utensil and either of the following:

(A) At least 12 inches wide, 12 inches long, and 10 inches deep.

(B) At least 10 inches wide, 14 inches long, and 10 inches deep.

(2) Each drainboard shall be at least the size of one of the sink compartments. The drainboards shall be installed with at least one-eighth inch per foot slope toward the sink compartment, and fabricated with a minimum of one-half inch lip or rim to prevent the draining liquid from spilling onto the floor.

(3) The sink shall be equipped with a mixing faucet and shall be provided with a swivel spigot capable of servicing all sink compartments.

(b) If all utensils and equipment of a mobile food facility are washed and sanitized on a daily basis at the approved commissary or other approved food facility, and the mobile food facility provides and maintains an adequate supply of spare preparation and serving utensils in the mobile food facility as needed to replace those that become soiled or contaminated, then the mobile food facility shall not be required to provide a warewashing sink to only handle any of the following:

(1) Nonpotentially hazardous foods that do not require preparation other than heating, baking, popping, portioning, bulk dispensing, assembly, or shaving of ice.

(2) Steamed or boiled hot dogs.

(3) Tamales in the original, inedible wrapper.

(c) An unenclosed mobile food facility that prepares potentially hazardous beverages for immediate service in response to an individual consumer order shall do one of the following:

(1) Provide a three-compartment sink described in subdivision (a).

(2) Provide at least one two-compartment sink that complies with subdivision (e) of Section 114099.3.

(3) Provide a one-compartment sink with at least one integral metal drainboard, an adequate supply of spare preparation and serving utensils to replace those that become soiled or contaminated, and warewashing facilities that comply with

subdivision (a) in reasonable proximity to, and readily accessible for use by, food employees at all times.

SEC. 57. Section 114314 of the Health and Safety Code is amended to read:

114314. (a) Handwashing sinks and warewashing sinks for unenclosed mobile food facilities shall be an integral part of the primary unit or on an approved auxiliary conveyance that is used in conjunction with the mobile food facility.

(b) Warewashing sinks for unenclosed mobile food facilities shall be equipped with overhead protection made of wood, canvas, or other materials that protect the sinks from bird and insect droppings, dust, precipitation, and other contaminants.

SEC. 58. The heading of Article 13.5 (commencing with Section 114332) of Chapter 10 of Part 7 of Division 104 of the Health and Safety Code is repealed.

SEC. 59. The heading of Chapter 10.5 (commencing with Section 114332) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 10.5. NONPROFIT CHARITABLE TEMPORARY FOOD
FACILITIES

SEC. 60. Section 114358 of the Health and Safety Code is amended to read:

114358. (a) Notwithstanding Section 113953, handwashing facilities for temporary food facilities that operate for three days or less may include a container capable of providing a continuous stream of water from an approved source that leaves both hands free to allow vigorous rubbing with soap and warm water for 10 to 15 seconds, inclusive.

(b) Temporary food facilities that handle only prepackaged food and comply with Section 113952 shall not be required to provide a handwashing facility, except as required in Section 114359.

(c) A catch basin shall be provided to collect wastewater, and the wastewater shall be properly disposed of according to Section 114197.

(d) Handwashing facilities shall be equipped with handwashing cleanser and single-use sanitary towels.

(e) A separate receptacle shall be available for towel waste.

SEC. 61. Section 114371 of the Health and Safety Code is amended to read:

114371. Certified farmers' markets shall meet all of the following requirements:

(a) All food shall be stored at least six inches off the floor or ground or under any other conditions that are approved.

(b) Food preparation is prohibited at certified farmers' markets with the exception of food samples. Distribution of food samples may occur provided that the following sanitary conditions exist:

(1) Samples shall be kept in approved, clean, covered containers.

(2) All food samples shall be distributed by the producer in a sanitary manner.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Food intended for sampling shall be washed or cleaned in another manner of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Notwithstanding Section 114205, potable water shall be available for handwashing and sanitizing as approved by the enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45°F and shall be disposed of within two hours after cutting.

(7) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleanable, or single-use articles shall be utilized.

(c) Approved toilet and handwashing facilities shall be available within 200 feet travel distance of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement officer.

(f) Notwithstanding Chapter 10 (commencing with Section 114294), vendors selling food adjacent to, and under the

jurisdiction and management of, a certified farmers' market may store, display, and sell from a table or display fixture apart from the mobile food facility in a manner approved by the enforcement agency.

(g) Temporary food facilities may be operated as a separate community event adjacent to and in conjunction with certified farmers' markets that are operated as a community event. The organization in control of the event at which one or more temporary food facilities operate shall comply with Section 114381.1.

SEC. 62. Section 114380 of the Health and Safety Code is amended to read:

114380. (a) A person proposing to build or remodel a food facility shall submit complete, easily readable plans drawn to scale, and specifications to the enforcement agency for review, and shall receive plan approval before starting any new construction or remodeling of any facility for use as a retail food facility.

(b) Plans and specifications may also be required by the enforcement agency if the agency determines that they are necessary to assure compliance with the requirements of this part, including, but not limited to, a menu change or change in the facility's method of operation.

(c) (1) All new school food facilities or school food facilities that undergo modernization or remodeling shall comply with all structural requirements of this part. Upon submission of plans by a public school authority, the Office of the State Architect and the local enforcement agency shall review and approve all new and remodeled school facilities for compliance with all applicable requirements.

(2) Except when a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing public and private school cafeterias and licensed health care facilities shall be deemed to be in compliance with this part pending replacement or renovation.

(d) Except when a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing food facilities that were in compliance with the law in effect on June 30, 2007, shall be deemed to be in compliance with the law pending replacement or renovation. If a determination is made by the enforcement agency that a structural condition poses a public health hazard, the food facility shall

remedy the deficiency to the satisfaction of the enforcement agency.

(e) The plans shall be approved or rejected within 20 working days after receipt by the enforcement agency and the applicant shall be notified of the decision. Unless the plans are approved or rejected within 20 working days, they shall be deemed approved. The building department shall not issue a building permit for a food facility until after it has received plan approval by the enforcement agency. Nothing in this section shall require that plans or specifications be prepared by someone other than the applicant.

SEC. 63. Section 114381 of the Health and Safety Code is amended to read:

114381. (a) A food facility shall not be open for business without a valid permit.

(b) A permit shall be issued by the enforcement agency when investigation has determined that the proposed facility and its method of operation meets the specifications of the approved plans or conforms to the requirements of this part.

(c) A permit, once issued, is nontransferable. A permit shall be valid only for the person, location, type of food sales, or distribution activity and, unless suspended or revoked for cause, for the time period indicated.

(d) Any fee for the permit or registration or related services, including, but not limited to, the expenses of inspecting and impounding any utensil suspected of releasing lead or cadmium in violation of Section 108860 as authorized by Section 114393, review of HACCP plans, and alternative means of compliance shall be determined by the local governing body. Fees shall be sufficient to cover the actual expenses of administering and enforcing this part. The moneys collected as fees shall only be expended for the purpose of administering and enforcing this part.

(e) A permit shall be posted in a conspicuous place in the food facility or in the office of a vending machine business.

(f) Any person requesting the enforcement agency to undertake activity pursuant to Sections 114149.1 and 114419.3 shall pay the enforcement agency's costs incurred in undertaking the activity. The enforcement agency's services shall be assessed at the current hourly cost recovery rate.

SEC. 64. Section 114387 of the Health and Safety Code is amended to read:

114387. Any person who operates a food facility shall obtain all necessary permits to conduct business, including, but not limited to, a permit issued by the enforcement agency. In addition to the penalties under Article 2 (commencing with Section 114390), violators who operate without the necessary permits shall be subject to closure of the food facility and a penalty not to exceed three times the cost of the permit.

SEC. 65. Section 114435 of the Health and Safety Code is repealed.

SEC. 66. Section 114436 of the Health and Safety Code is repealed.

SEC. 67. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 68. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent confusion regarding the laws necessary to protect the health of the public, it is necessary that this act go into immediate effect.

Approved _____, 2009

Governor